IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1013 OF 2004

The State of Maharashtra ..Appellant

V/s.

Vasant Pandurang Pawar ..Respondent

Mr.D.R.More, APP for Appellant/State.

Coram : R.S.Mohite,J

Date :10th January, 2006.

PC

1. This is an appeal filed by the State against a judgment and order dated 22.4.2004 passed by the Chief Judicial Magistrate, Kolhapur, acquitting the accused for offence punishable under Section 16 of the Prevention of Food Adulteration Act 1954. On perusal of the impugned judgment and order it is found that cogent and acceptable reasons are given for acquitting of the accused. The food article in question was milk. It is observed by the trial Court that the evidence did not indicate that the sample bottle was made clean, dry and empty. Rule 14 of the Act has thus been violated. There was no evidence to indicate that milk samples are made representative and homogenious prior to taking of sample. Thus there is violation of section 1-B & G

of the Act. The analyst who has examined the sample, was not examined by the prosecution as witness. There was doubt whether formaling was added because the test report did not indicate the presence of formaling in the sample. There is also violation of section 13(2) of the Act as the local authority did not produce the acknowledgment of the notice sent to the accused. There is also delay of 4 days in forwarding the sample. In the circumstances, not a fit case to interfere and hence leave refused and consequently appeal stands dismissed.

(R.S.Mohite,J)